

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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MARTIN LJULJDURAJ,

Plaintiff-Appellant,

v

QUALITY AWNING & CONSTRUCTION  
COMPANY,

Defendant-Third Party Plaintiff-  
Appellee,

and

MODERN WORLD HOME IMPROVEMENT,

Third Party Defendant-Appellee,

and

PRODO INC., and LIBERTY MUTUAL  
INSURANCE COMPANY,

Defendants.

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Before: Whitbeck, P.J., and Neff and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's order dismissing his claims against defendant Quality Awning & Construction Company and order granting that defendant costs and attorney fees as sanctions under MCR 2.403(O). We affirm the order dismissing plaintiff's complaint, reverse the order awarding attorney fees, and remand the matter to the circuit court for an evidentiary hearing and findings of fact regarding the reasonableness of the fees sought by defendant. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The circuit court did not err by summarily disposing of plaintiff's claims against defendant Quality Awning & Construction. As a general contractor, defendant Quality Awning & Construction (hereinafter defendant) could not be held liable for injuries suffered by a subcontractor's employee like plaintiff unless plaintiff was able to prove that the case fell within

one of the recognized exceptions to this general rule. *Groncki v Detroit Edison Co*, 453 Mich 644, 662; 557 NW2d 289 (1996); *Candelaria v BC General Contractors*, 236 Mich App 67, 72; 600 NW2d 348 (1999); *Phillips v Mazda Motor Mfg (USA) Corp*, 204 Mich App 401, 405-406; 516 NW2d 502 (1994). Plaintiff did not present any evidence showing a genuine issue of material fact with regard to any of the exceptions to this rule, so summary disposition was proper pursuant to MCR 2.116(C)(10).

Plaintiff presented no evidence indicating that defendant exercised a high degree of control over Modern's work or that defendant's actions had an actual effect on the environment or the way Modern's employees performed their work. Accordingly there was no genuine issue of material fact that the case did not fall within the "retained control" exception. *Candalaria, supra* at 76; *Phillips, supra* at 408. There was no issue of fact that any inherent danger in the work performed by plaintiff was created by the subcontractor's negligence in carrying out the work, so the "inherently dangerous work" exception does not apply. *Kubisz v Cadillac Gage Textron, Inc*, 236 Mich App 629, 633-634; 601 NW2d 160 (1999); *Phillips, supra* at 406. The "common work area" exception requires both that the common work area is shared by the employees of more than one subcontractor and that a readily observable and avoidable danger in that area creates a high degree of risk to a significant number of workers. *Groncki, supra*. The evidence relied upon by plaintiff did not indicate that employees of more than one subcontractor shared the area where plaintiff worked or that the danger of falling created a high degree of risk to a significant number of workers. Finally, plaintiff's theory that an employee of defendant caused his fall by moving a forklift was unsupported by any evidence whatsoever.

The circuit court erred in granting defendant's motion for attorney fees pursuant to MCR 2.403(O) without holding an evidentiary hearing regarding those fees and making appropriate findings of fact regarding the reasonableness of the fee amount. *B & B Investment Group v Gitler*, 229 Mich App 1, 15-17; 581 NW2d 17 (1998). Accordingly, we reverse the circuit court's order granting attorney fees as sanctions under MCR 2.403(O) and remand the case for an evidentiary hearing and findings of fact regarding the reasonableness of the fees sought.

The circuit court's order dismissing plaintiff's complaint is affirmed. The order granting attorney fees is reversed and the matter is remanded to the circuit court for an evidentiary hearing and findings of fact regarding the reasonableness of the fees sought. We do not retain jurisdiction.

/s/ William C. Whitbeck  
/s/ Janet T. Neff  
/s/ Joel P. Hoekstra